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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,371	12/19/2000	James M. Etkin	6787-3	4946

4897 7590 07/06/2005

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EXAMINER

CAMPEN, KELLY SCAGGS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,371

Applicant(s)

ETKIN, JAMES M.

Examiner

Kelly Campen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 10-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/19/2000.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, drawn to a computerized bidding method, classified in class 705, subclass 37.
- II. Claims 10-15, drawn to vendor client system, classified in class 705, subclass 26.
- III. Claims 16-21, drawn to computer client system, classified in class 705, subclass 1.
- IV. Claims 22-26, drawn to computerized system for matching, classified in class 705, subclass 37.
- V. Claims 27-38, drawn to a computerized bidding and information exchange, classified in class 705, subclass 35.
- VI. Claims 39-43, drawn to vendor client computer bidding, classified in class 705, subclass 26.
- VII. Claims 44-50, drawn to hospitality bidding method, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II and Group III and Group IV and Group V and Group VI and Group VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different

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functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions they have different modes of operation.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II-VII, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Robert Kain on 5/18/05 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9. Applicant in replying to this Office action must make affirmation of this election. Claims 10-50 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed method consists solely of the manipulation of an abstract

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idea and is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. In addition, the claim is devoid of any limitation to a practical application in the technological arts. The invention in the **body** of the claim must recite technology. If the invention, in the body of the claim, is not tied to technological art, environment, or machine, the claim is not statutory (see *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001). Also note MPEP 2106 IV 2(b). Examiner notes that this is not a precedential decision but it is being cited for its analysis of whether the claim is in the technological arts.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fraser
(US5664115).

Fraser discloses an interactive computer system to match buyers and sellers of real estate, businesses and other property using the internet (abstract). Fraser discloses a computerized bidding method for matching hospitality facility data, representing vendors furnishing hotel facilities, meeting room facilities or other hospitality facilities, with requirement data, representing respective necessities of a plurality of meeting planners for a corresponding plurality of meetings Or events, said bidding and matching method utilizing a client-server network with at least one server and a plurality of client computer systems, the method

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comprising the steps of; storing said hospitality facility data and said requirement data in a database on said at least one server, said hospitality facility data at least including vendor contact data, room quantity data and amenity data; gathering requirement offer data and planner contact data from said plurality of meeting planners, the gathered requirement offer data including facilities requirements data; matching requirement offer data with said hospitality facility data; presenting blinded requirement data, without revealing the identity of the corresponding meeting planner who supplied said requirement offer data, to vendors associated with said hospitality facility data which match said facilities requirements data; gathering specific hospitality facility data from said vendors relative to said presented blinded requirement data including price data; presenting, to said corresponding meeting planner who supplied said requirement data, blinded specific hospitality facility data responsive to said requirement offer data; permitting said corresponding meeting planner to select blinded specific hospitality facility data from a predetermined number of vendors; enabling direct communications with the exchange of vendor and planner contact data between said predetermined number of vendors and said corresponding meeting planner supplying said requirement offer data; in the event said corresponding meeting planner cannot fulfill necessities corresponding to said requirement offer data, repeating the permitting selection step while excluding at least one of said predetermined number of vendors and repeating the enabling communications step; gathering facilities offer data, representing at least one offer by a vendor to supply hospitality facilities, and storing said facilities offer data in said database, said facilities offer data including at least a hospitality facility feature and facility offer price data; presenting blinded facilities offer data to one or more meeting planners; gathering specific facilities requirement data from a plurality of responsive meeting planners

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relative to said facilities offer data; presenting, to said at least one vendor supplying said facilities offer data, blinded specific requirement data permitting said at least one vendor to select blinded specific requirement data representing a further predetermined number of said responsive meeting planners, enabling direct communications with the exchange of planner contact data between said further predetermined number of said responsive meeting planners and vendor contact data of said at least one vendor supplying said facilities offer data and, in the event said at least one vendor can not fulfill the corresponding offer to supply hospitality facilities, repeating said amenities selection step and presenting said blinded facilities offer data step to said one vendor while excluding at least one of said further predetermined number of responsive meeting planners and repeating the enabling of communications step between said meeting planners and said one vendor (see figure 1, 5a, 5b, 6a, 6b, 7-9)

Specifically as to claims 2-9, see above rejection of claim 1 for specific citation and reasoning.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Campen whose telephone number is (571) 272-6740. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kelly S. Campen